IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.48 OF 1995
IN
LAND ACQUISITION REFERENCE NO.563 OF 1987

WITH

CROSS OBJECTION STAMP NO.10371 OF 1996
IN
FIRST APPEAL NO.48 OF 1995

The State of Maharashtra
(Through the Special Land
Acquisition Officer, Metro Centre
No.II, Panvel.) .. Appellant

V/s

Shri.Tukaram Rama Khutarkar
R/o.Nawade, Tal.Panvel .. Respondent
(Orig.Claimant)

Mr.K.K.Tated (AGP) for the Appellant.

Mr.S.S.Kulkarni for the Respondent.

CORAM: S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.
DATE : 16.9.2004.

P.C.:

1. The land with respect to the above appeal is situated in village Nawade. The Notification under Section 4 of the Land Acquisition Act, 1894 was published on 3.2.1970. The Award under Section 11 of the Land Acquisition Act was declared by the Special Land Acquisition Officer on 8.9.1986. It appears that the acquired land is situated within a distance of 200 mtrs.from the Bombay-Poona High Way.

2. We have perused the Judgment and Order passed by the Division Bench of this Court on 31st March, 2004 in First Appeal No.757 of 2003 & First Appeal No.1782 of 2002 wherein the market value of the land was fixed at Rs.25/- per sq.mtr. We have also perused the Order passed by the Division Bench of this Court on 30th August, 2004 in First Appeal No.602 of 1991 with First Appeal No.50 of 1992 wherein the concerned land was also situated at village Nawade and the market value of the said land situated in village Nawade was fixed at Rs.25 per sq.mtr.

3. In view of the aforesaid Judgment and Orders of the Division Bench of this Court, we also fix the market value of the land with respect to the present appeal which is situated at village Nawade at Rs.25/- per sq.mtr.

4. Considering that the Award under Section 11 of the Land Acquisition Act was made on 8th September, 1986 which is subsequent to 28th April, 1982, the original claimant will be entitled to compensation under Section 23(1A) of the Land Acquisition Act.

5. Under the aforesaid facts and circumstances, there is no substance in the present appeal. First Appeal 48 of 1995 filed by the original Opponent (State of

Maharashtra) stands dismissed.

(3)

6. The Cross Objection Stamp No.10371 of 1996 is allowed. The original Claimant is entitled to, and the Opponent shall pay the compensation for the acquisition of the land at the rate of Rs.25/- per sq.mtr.together with additional compensation at the rate of 12% per annum of the adjudicated market value of the land from the date of the Notification under Section 4 of the Land Acquisition act (i.e.3.2.1970) till the date of the Award or date of possession, whichever is earlier, and alongwith 30% solatium on the market value of the land. The Opponent shall also pay interest on the decretal amount at the rate of 9% per annum for the first one year from the date of possession and thereafter at the rate of 15% per annum till the date of realisation of the decretal amount.

(S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)